



*National Association of*  
*State Auditors, Comptrollers and Treasurers* *if need 3 July 97*

July 2, 1997

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Jefferson City, MO 65102  
(573) 751-4824

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John P. Galligan

Director, Card Technology Division

Financial Management Service

U.S. Department of Treasury

Room 526, Liberty Center

401 14th Street, SW

Washington, DC 20227

Re: 31 CFR Part 207, Electronic Benefits Transfer, Selection  
and Designation of Financial Institutions as Financial Agents

Dear Mr. Galligan:

The National Association of State Auditors, Comptrollers and Treasurers (NASACT) represents the state fiscal officers and is a leader in the development of Electronic Benefit Transfer (EBT) systems in the states. The migration of payment systems towards EBT, at both the state and federal levels, will change the existing procedures used to transfer billions of dollars of funds. It is in this capacity that NASACT responds to the Financial Management Service's (FMS) notice of proposed rulemaking.

Of course the federal government will exercise its sovereignty to determine the method of benefit delivery for federal direct benefits. However, if it wants to join EBT systems with the states, the potential benefits to state EBT participants of the proposed rules must be compared to potential costs incurred by state governments. Increasing efficiency, cost savings, and improving customer service by combining state and federal benefits on a single card are worthwhile goals as long as burdens are not placed upon states participating in such programs. Under this notice of proposed rule making, it is not clear that states' benefits would outweigh costs.

States are offered the benefits that can be derived by an improved bargaining position with their financial institutions if federal direct benefits are included on their state issued cards. By offering financial institutions greater "volume" states are assumed to be able to negotiate better deals with their financial institutions to save money or improve provided services. The uncertainty of this windfall must be weighed against additional costs due to additional federal mandates.

From the perspective of a single card for both state and federal purposes, there are several areas of concern in need of clarification in the notice of proposed rulemaking. Some are included below:

Reimond P. Van Daniker, Executive Director for NASACT  
2401 Regency Road, Suite 302, Lexington, Kentucky 40503, Telephone (606) 276-1147,  
Fax (606) 278-0507, email [rvasact@mis.net](mailto:rvasact@mis.net) and 444 N. Capitol Street, NW, Washington, DC 20001  
Telephone (202) 624-5451, Fax (202) 624-5473, email [nasactdc@sso.org](mailto:nasactdc@sso.org)

207.01a

1. Section 207.3(a)(4) indicates that FMS requires the "Benefit Security Card" mark be on all cards involved in Federal Direct EBT. A large number of states have adopted the Quest mark and its associated operating rules for their EBT programs. The additional Benefit Security Card mark may cause confusion. Also, it is unclear if the Benefit Security Card mark will necessitate operating rules, and if so, how such rules will coordinate with Quest operation rules.

2. Proposed Section 207.3 indicates that Treasury has the inherent ability to perform, as principal, many of the duties assigned to the financial agent, if it is in the "best interests" of the government (assumed to reference the "federal" government). What are the implications of the federal government acting to intercede in a contractual relationship between a state government and private financial institution?

3. Proposed Section 207.3(a)(2) indicates that Federal Direct Benefits will be covered by Regulation E while benefits will not. Again this could be very confusing, and the federal government will need to differentiate between commingled funds upon a Regulation E claim. Also, additional costs incurred by financial institutions for Regulation E could diminish cost savings.

4. Proposed Section 207.3(b) indicates that financial institutions will act as agents of the United States and not recipients. It does not mention the role of state governments with whom the institutions will have contracted.

In the National Performance Review Report, Vice President Gore urges state and federal government to work together to produce a "one card" EBT system to serve benefit recipients. While that remains a laudable goal making it possible to take advantage of the synergies between the state and federal governments, it appears likely this proposed rulemaking will result in two card systems, one operated by the states, and a second as the Benefit Security Card.

State governments will continue to promote the expansion of EBT whether it be in a "single card" or "two card" model. If NASACT may be of assistance in this matter, please contact Stephen Kenneally in the NASACT Washington office at (202) 624-5451.

Sincerely,

A handwritten signature in cursive script that reads "William Kilmartin".

William Kilmartin  
Comptroller, Commonwealth of Massachusetts  
NASACT Lead EBT Member